



The City of San Diego

Staff Report

DATE ISSUED: 5/23/2022

TO: City Council

FROM: Council District 9

SUBJECT: Consideration of a Ballot Measure For The November 2022 Election To Amend San Diego Municipal Code Section 66.0127 Regarding The Collection, Transport, Disposal, And Recycling Of Solid Waste

Primary Contact: Brendan Dentino Phone: (619) 236-6699

Secondary Contact: Lydia Van Note Phone: (619) 236-6699

Council District(s): Citywide

OVERVIEW:

This item is the consideration of an ordinance to place a measure on the November 2022 ballot that would amend San Diego Municipal Code Section 66.0127, known as the People’s Ordinance, regarding the collection, transport, transfer, disposal, and recycling of solid waste. This item also seeks approval of a resolution directing the preparation of related ballot materials.

PROPOSED ACTIONS:

Request that the City Council adopt the ordinance in Sub-item A to place on the November 8, 2022 Municipal Special Election a ballot measure amending the San Diego Municipal Code by amending Chapter 6, Article 6, Division 1, Section 66.0127, relating to solid waste management services; and adopt the resolution in Sub-item B, directing the preparation of related ballot materials.

DISCUSSION OF ITEM:

The “People’s Ordinance” (Ordinance) is a voter initiative adopted in 1919 and subsequently amended by voters in 1981 and 1986. As currently enacted, it has become an impediment to responsible governance, local innovation, and the delivery of world-class services to residents. The Ordinance prohibits the City from recovering costs for solid waste management services it provides; results in limited collection services for trash, recycling, and organic waste; and confers an exclusive benefit onto only a subset of City residents.

The City of San Diego is the only jurisdiction in San Diego County to provide solid waste management services to residents at no charge, and, according to a 2017 San Diego County Grand Jury report, “San

Diego is one of only three cities in California with a population of more than 7,000 that do not charge a separate fee for refuse collection services.”

Council President Elo-Rivera and Councilmember LaCava propose a ballot measure for the November 2022 election asking voters to amend the People’s Ordinance to untie the City’s hands so it can provide San Diegans world-class services and implement responsible governance. Such an amendment would:

- Protect the jobs of the City’s sanitation workers
- Allow for cost recovery for City-provided collection, transport, transfer, disposal, and recycling of solid waste
- Include cost of bins if cost recovery for solid waste management services is implemented, so residents no longer must pay a standalone fee for bins
- Close loopholes, if cost recovery is implemented, that short-term vacation rentals (STVRs), accessory dwelling units (ADUs), and “mini-dorms” can exploit for free City-provided solid waste management services.

#### *Background and History*

First approved by voters in 1919, the “People’s Ordinance” made refuse collection and disposal the City’s responsibility and authorized the City to impose a tax to fund those services. The City never imposed a tax.

In 1981, voters approved amendments to the Ordinance that, among other changes, legitimized private refuse hauling and permitted the City to charge private haulers for waste disposed at Miramar Landfill. In 1986, voters approved amendments to the Ordinance that, among other changes, clarified the City’s responsibilities in providing refuse services and eliminated the City’s ability to charge customers for such services.

The 1986 amendments resulted in today’s system in which the City is prohibited from recovering costs from most single-family residences for refuse collection, transportation, and disposal services, while most residents in apartments and condominiums must pay a private hauler for solid waste services.

Issues stemming from the Ordinance emerged over time and three separate San Diego County Grand Juries convened to analyze them:

- 2005 – “Rethink, Redirect, Recycle”
- 2008 – “Waste Not, Want Not – Recycle Now”
- 2009 – “Time for Repeal of the People’s Ordinance”

The 2005 “Rethink, Redirect, Recycle” report notes that “all jurisdictions in the County of San Diego, with the exception of the City of San Diego, charge for trash pick-up,” and each report recommended the City place a measure on the ballot to ask voters to repeal the Ordinance.

This recommendation was based primarily on the inherent inequity of the Ordinance. As 2008’s “Waste Not, Want Not – Recycle Now” report states, “An ordinance that provides free waste collection for some residents while others must pay for this service is fundamentally inequitable and cannot be justified as a policy that furthers the collective good.”

The Grand Juries also recommended the City convert refuse services to a “pay as you throw” (PAYT) or variable-rate system in which customers are charged based on the amount of waste they generate. PAYT fee models are common throughout California and the nation and are often used to incentivize residents to generate less waste. However, the City cannot institute a PAYT model or other method to reliably incentivize waste reduction or recycling because the Ordinance prohibits the City from recovering costs

for residential solid waste services. This impacts the City's ability to achieve its Climate Action Plan goals, which include a target of 90% waste diversion by 2035.

Since the initial Grand Jury report in 2005, the City has not placed a measure on the ballot that asks voters to either amend or repeal the Ordinance.

In 2021, the City's Independent Budget Analyst (IBA) issued "IBA Report 21-23 Analysis of the Fiscal Impact of the People's Ordinance." Like the Grand Juries did, the IBA's report highlights the inequity inherent to the Ordinance. Refuse collection "is one of the only services paid for by the General Fund that confers an exclusive benefit onto only a subset of City residents." The IBA's report also discusses the barriers that the Ordinance presents to achieving the City's Climate Action Plan goals and calculates the fiscal impact of the Ordinance.

The General Fund is the City's flexible pool of money that funds public services, libraries and park, that benefit all residents. Between Fiscal Years (FY) 2017-2021, the IBA determined the Ordinance cost the General Fund \$172.9 million. In FY 2022, the Ordinance is costing the General Fund \$43.2 million. Between FY 2023-2027, the Ordinance is expected to cost the General Fund at least \$234.7 million. That's \$234.7 million that could be invested in public services like parks, libraries, and more. Without a change to the Ordinance, all \$450.8 million that has and is expected to cost the General Fund between 2017-2027 will be spent on an exclusive service.

The IBA's report calculated the costs of the Ordinance before the development of the City's FY 2023 budget. As noted in the IBA's "Review of the FY 2023 Proposed Budget," the Ordinance will cost the General Fund \$53.4 million in FY 2023.

It is for the reasons discussed above that Council President Elo-Rivera and Councilmember LaCava seek to place a measure on the ballot to ask voters to amend the Ordinance. Such an amendment would result in a more responsible City government by:

- Addressing many of the issues raised in the Grand Jury and IBA reports.
- Provide the City flexibility to invest tens of millions to support and improve public services.
- Helping achieve our Climate Action Plan goals by being able to enhance solid waste management services and implement innovative policies and programs.
- Eliminating the policy that results in the City being the only jurisdiction in the County that requires most residents in apartments and condominiums to pay for solid waste management services.

#### *Sub-Item A*

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego, for their approval or rejection at the Municipal Special Election, consolidated with the California State General Election to be held on November 8, 2022, one measure amending the San Diego Municipal Code by amending Chapter 6, Article 6, Division 1, Section 66.0127, relating to solid waste management services.

#### *Sub-Item B*

Resolution directing the City Attorney to prepare a ballot title and summary and an impartial analysis; directing the Mayor, Independent Budget Analyst, and City Auditor to prepare a fiscal impact analysis; and assigning ballot arguments; all regarding a measure submitting to the qualified voters of the City of San Diego, for their approval or rejection at the Municipal Special Election, consolidated with the California State General Election to be held on November 8, 2022, relating to solid waste management services.

#### City of San Diego Strategic Plan:

This item ties directly to the Strategic Plan's Champion Sustainability priority area of focus and its Waste Diversion strategy.

Fiscal Considerations: There is an initial total budgeted amount of \$2.3 million in FY 2023 Citywide Elections Expenditures to cover election costs. Final election costs will be calculated based on the number of participating jurisdictions; the total number of ballot measures and candidates for all jurisdictions; the number of pages for the ballot measures; the voter participation rate in an electronic voter pamphlet subscription service; the number of registered voters; and whether there are additional translation requirements from the State.

Charter Section 225 Disclosure of Business Interests: N/A; there is no contract associated with this action.

Environmental Impact: This activity has been reviewed for consistency with and is covered in the Final Program EIR (PEIR) for the General Plan (Project No. 104495/SCH No. 2006091032) certified by the San Diego City Council on March 10, 2008 (Resolution R-313099), and in the Final EIR (FEIR) for the Climate Action Plan (Project No. 416603/SCH No. 2015021053) certified by the San Diego City Council on December 15, 2015 (Resolution R-310176). This activity will help implement Strategy Four of the Climate Action Plan (Circular Economy and Clean Communities, formally called Zero Waste) which includes diverting solid waste, capturing landfill emissions, and reducing municipal waste. Thus, the proposed activity falls within the scope of the City's General Plan and Climate Action Plan and would not result in new significant direct, indirect, or cumulative impacts than those disclosed in the abovementioned certified environmental documents. This is a subsequent discretionary action and therefore not considered to be a separate project for purposes of CEQA review as defined in CEQA Guidelines Section 15378(c). Pursuant to Section 21166 of CEQA, there is no change in circumstance, additional information, or project changes to warrant additional environmental review for this action.

Climate Action Plan Implementation: This action relates to Strategy 4: Zero Waste (Gas & Waste Management) by proposing amendments to the Municipal Code governing City services relating to the collection, transport, transfer, and disposal or recycling of solid waste. The Climate Action Plan has a target of achieving 90% waste diversion and 90% landfill emissions capture by 2035.

Equal Opportunity Contracting Information (if applicable): N/A

Previous Council and/or Committee Actions: On October 7, 2021, the Environment Committee received an informational presentation from the Independent Budget Analyst on 'IBA Report 21-23 Analysis of the Fiscal Impact of the People's Ordinance.'

On March 16, 2022, the Rules Committee voted 4-1 to request the City Attorney's Office work with the appropriate City department or Council District to prepare a ballot measure for consideration by the Committee.

On June 8, 2022, the Rules Committee voted 4-1 to forward the proposed measure to the full Council for consideration for placement on the November 2022 ballot and direct the City's Management Team for labor relations to engage in the meet and confer process on mandatory subjects of bargaining under the Meyers-Milias-Brown Act that are related to the proposed measure.

On June 14, 2022, the City Council voted 8-1 to direct the City's management team for labor relations to engage in collective bargaining related to a proposed measure to amend SDMC Section 66.0127 regarding collection, transport, transfer, and disposal or recycling of solid waste.

Planning Commission Action: N/A

Key Stakeholders and Community Outreach Efforts: City of San Diego staff and Recognized Employee Organizations; non-exclusive franchise haulers; and residents of San Diego.

Lydia Van Note

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Chief of Staff